

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
BRUNSWICK DIVISION

KENNETH HAROLD HARRINGTON,

Petitioner,

v.

ANTHONY HAYNES, Warden,

Respondent.

CIVIL ACTION NO.: CV210-166

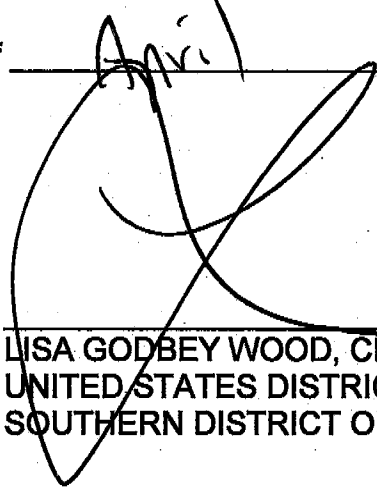
ORDER

After an independent and *de novo* review of the entire record, the undersigned concurs with the Magistrate Judge's Report and Recommendation, to which Objections have been filed. In his Objections, Petitioner Kenneth Harrington ("Harrington") contends that 28 U.S.C. § 2255 is inadequate or ineffective to contest the legality of his conviction because he cannot bring claims in a § 2255 motion which he already brought on direct appeal. Harrington asserts that, because of this procedural bar, his claims are distinguishable from those underlying Gilbert v. United States, 640 F.3d 1293 (11th Cir. 2011). Harrington also asserts that he waived several bases for an appeal and a section 2255 motion based on the waiver provision contained in his plea agreement. Finally, Harrington asserts that the trial court erroneously found him to be a career offender, which tripled his base sentence.

As the Magistrate Judge noted, Harrington was not sentenced as a career offender. In addition, Harrington's sentence was below the statutory maximum. Harrington's claims do not satisfy the savings clause of section 2255, and thus, he cannot proceed with his § 2241 petition.

Harrington's Objections are without merit and are **overruled**. The Magistrate Judge's Report and Recommendation is adopted as the opinion of the Court. Harrington's petition for writ of habeas corpus, filed pursuant to 28 U.S.C. § 2241, is **DISMISSED**. The Clerk of Court is directed to enter the appropriate judgment of dismissal.

SO ORDERED, this 14 day of April, 2012.


LISA GODBEY WOOD, CHIEF JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA